



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF
STATE PLANNING COORDINATION

April 22, 2004

Mr. Bob Harris
Gulfstream Development Corporation
27 Atlantic Avenue
Ocean View, DE 19970

RE: PLUS review – PLUS 2004-03-08; Barrington Park Project

Dear Mr. Harris:

Thank you for meeting with State agency planners on March 24, 2004 to discuss the proposed plans for the Barrington Park project located on the south side of Burbage Road between Substation Road and Windmill Road.

According to the information received, you are seeking annexation into the Town of Millville and rezoning from AR-1 to R-1 for the purpose of developing 267 single-family detached houses and 173 residential condominiums on 127 acres.

According to the 1999 Strategies for State Policies and Spending and the Sussex County Comprehensive Plan, this project is located in an Environmentally Sensitive Developing Area. It is also within the Area of Concern according to the Town of Millville comprehensive plan.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Sussex County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County. If annexed into the Town of Millville, the developer will need to comply with any and all regulations/restrictions set forth by the Town.

These comments relate to the development proposal and **not** the proposed annexation into the Town of Millville. The Office of State Planning Coordination will respond separately to the Town of Millville on issues relating to this and other annexations.

This office has received the following comments from State agencies:

Department of Transportation – Contact: Bill Brockenbrough 760-2109

On February 25, 2004, the developer and their traffic engineer met with DelDOT to determine the scope of work for a traffic impact study. Presently it takes about a year from the initial scoping meeting until the completion of DelDOT's review of the final study. Because DelDOT requires summer season counts for TIS in the resort area, the process may take somewhat longer in this case. DelDOT commended the developer for coming to us early in this regard. By doing so, they are acting to keep the TIS process from delaying their project.

DelDOT currently has two projects under design that are near the subject development. The first project is the SR 26 Local Roads Improvement Project, which will improve a series of existing local roads on the south side of Route 26 between Route 17 and Delaware Route 1, but will not increase their capacity. DelDOT expects to complete those improvements in 2008. The second project will improve Route 26 from Clarksville to the Assawoman Canal; construction is expected to begin construction in 2009.

Questions on either project may be directed to DelDOT's manager for those projects, Mr. Robert McCleary. He can be reached at (302) 760-2179.

Presently there are large vacant parcels to the northeast and southwest of the proposed development. The plan should be modified to provide stub streets for future connections to those parcels. Similarly, the land to the southeast is being developed as Fairway Village. If possible, the two developments' street systems should be interconnected.

DelDOT recognizes that the developer proposes to provide some on-site amenities for residents. Because those amenities reduce the need to travel outside the development and thereby reduce traffic on area roads, DelDOT commends the developer for their efforts. It is suggested that additional amenities be considered to further entice residents to remain on the site.

DelDOT appreciates the developer's plans to provide shuttle bus service to take residents of this development to resort destinations. We understand that State parks and local municipalities have not welcomed shuttle buses from other developments in the area. DelDOT has agreed to explore this issue and determine what might be done to encourage more travel alternatives that utilize shuttle buses. DelDOT thanks the developer for bringing it to our attention.

The developer's engineer should coordinate with the DelDOT Subdivision Manager, Mr. John Fiori, to determine what will be required regarding the proposed site entrances on Substation and Windmill Roads. Mr. Fiori may be reached at (302) 760-2260.

**The Department of Natural Resources and Environmental Control – Contact:
Kevin Coyle 739-3091**

Water Supply

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Soils and Groundwater Recharge Potential

According to the soil survey update, the following soils were found in the immediate vicinity of the proposed construction:

- Somewhat poorly drained (**potentially hydric**) - Klej
- Poorly drained (**hydric**) – Hurlock & Askecksy
- Very poorly drained (**hydric**) – Mullica-Berryland complex

Generally, such soils have severe limitations for development, without substantial drainage and application of engineering practices.

According to the Delaware Geologic map of Ground-water Recharge Potential for Sussex County this project is located in an area of poor to fair recharge potential.

Wetlands

Statewide Wetland Mapping Project (SWMP) maps indicate the presence of 7.7 acre area of palustrine forested wetland and areas of palustrine farmed wetlands on this parcel. In addition, the Sussex County Soil Survey update indicates that most of the soils within this parcel (~90%) are poorly to very poorly-drained hydric soils of the type typically associated with freshwater wetlands.

Hydric soils of this type have severe limitations for development. The engineering uses section of the Sussex County Soil Survey state that the Mullica-Berryland and Hurlock soil types have very severe to severe limitations for the following uses: disposal fields for septic systems, house foundations (with or without basement), streets and parking lots, and gardening and landscaping.

Site plans show impacts to the forested Palustrine wetland area as well as to areas of farmed wetlands on site. Impacts to Palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process. The developer and municipality should note that wetland impacts of the scope proposed by this plan are generally not permitted by the 404 Clean Water Act regulatory program, particularly when reasonable alternatives exist.

Because there is strong evidence that federally regulated wetlands exist on site, **a wetland delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual, (Technical Report Y-87-1) should be conducted. Once complete, this delineation should be verified Corps of Engineers through the Jurisdictional Determination process.**

It is also recommended that the Farm Services Agency of the USDA be contacted to assess whether the farmed wetlands on subject parcel meet the recognized criteria for classification as “prior converted wetlands.” Prior converted wetlands are farmed wetlands that have drained or altered before December 23, 1985, and no longer meet the wetland criteria established under the 404 program. Such wetlands are considered exempt from regulatory protection provided that there is no proof of a continuous “fallow period” of five years or greater in that parcel’s cropping history. Parcels converted after said date regardless of cropping history are considered jurisdictional by the Army Corps of Engineers (ACOE). The contact person is Sally Griffin—she can be reached at 678-4182.

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-4691 to schedule a meeting.

Impacts to wetlands should be avoided, particularly because this development is within the Environmentally Sensitive Developing Area. Wetlands provide water quality benefits, attenuate flooding and provide important habitat for plants and wildlife. Given the site layout, there is little justification for proposed wetland and forest impacts.

Lots should be removed in their entirety from both the wetland and the forest surrounding it. Vegetated buffers of no less than 100 feet should be employed from the edge of the wetland complex. The developer should note that both DNREC and Army Corps of Engineers discourage allowing lot lines to contain wetlands to minimize potential cumulative impacts resulting from unauthorized and/or illegal activities and disturbances that can be caused by homeowners.

ERES Waters

This project is located within the Inland Bays watershed which is designated as waters having Exceptional Recreational or Ecological Significance (ERES). ERES waters are recognized as special assets of the State, and shall be protected and/ or restored, to the maximum extent practicable, to their natural condition.

TMDLs

With the adoption of Total Maximum Daily Loads (TMDLs) as a “nutrient-runoff-mitigation strategy” for reducing nutrients in the Inland Bays Watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level of pollution allowed for a given pollutant below which a “water quality limited water body” can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. The jurisdictional authority for attaining these use goals fall under Section 11.5 of the State of Delaware’s Surface Water Quality Standards (as amended August 11, 1999), and will be achieved via nutrient reductions referred to as “pollution control strategies.”

Nutrient reductions prescribed under TMDLs are assigned on basis of water quality concerns – that is, the those regions deemed to be of greatest environmental concern will require correspondingly higher levels of nutrient reduction than those regions deemed less environmentally sensitive. In this watershed, these regions are demarcated as high and low reduction zones. **This project is proposed within the low nutrient reduction zone** and requires a reduction of nitrogen and phosphorus by 40 percent.

It is recommended that the applicant verify compliance with the TMDL mandate through a full nutrient accounting process known as nutrient budget. The developer/consultant should contact Lyle Jones in the Department’s Watershed Assessment Section for further information regarding the acceptable protocol for calculating a nutrient budget. He can be reached as 739-4590.

The developer is strongly encouraged to employ Best Management Practices (BMPs or other pollution control strategies) such as stormwater management and/or riparian buffers to mitigate nutrient runoff into adjoining streams or watercourses. **A 100-foot minimum isolation distance is recommended from all wetlands or waterbodies.**

Stormwater Management

There exists a network of agricultural drainage including the Banks-Bennett Ditch that will need to be evaluated by the DNREC Drainage Section for use as an outlet for stormwater for this site. In addition, a pre-application meeting is suggested with the Sussex Conservation District and DNREC Drainage Section to discuss the stormwater plan as soon as possible. The issues of existing drainage and proposed stormwater strategy should be discussed together. Any of the stormwater management facilities need to meet the conditions of the Delaware Sediment and Stormwater Regulations and NRCS small pond code 378.

If any wetlands are impacted by the stormwater facilities, the Sussex Conservation District will require a copy of the wetlands permit. A Certified Construction Reviewer will be required for this project.

Contact: Sussex Conservation District: Jessica Watson 856-7219
DNREC Drainage Section: Tom Barthelmeh 739-4411

Habitat

The proposed project lies within five miles of a known Delmarva fox squirrel (*Sciurus niger cinereus*) population at the Assawoman Wildlife Area. Delmarva fox squirrels were listed as federally endangered in 1967 and are protected by the Endangered Species Act. They generally inhabit mature forests with open understories and wet woodlands, but can be opportunistic in their habitat choice. The proposed project area may have habitat suitable for Delmarva fox squirrels.

Though we understand the 14 acre forested area has been cut over recently, and may not be suitable for Delmarva fox squirrel, we urge the applicant to verify this with the U.S. Fish and Wildlife Service. Regardless, we recommend that the applicant pull the lots out of the forested area, and instead find compatible recreational uses and/or protect the upland and wetland forests as habitat (through conservation easements, for example).

With regard to Delmarva fox squirrel:

- Contact Trevor Clark (410-573-4527) of the U.S. Fish and Wildlife Service for proper procedures prior to beginning work. A conference with the Service is required for any projects that will directly or indirectly impact habitat within 5 miles of the Assawoman Wildlife Area fox squirrel locations;
AND/OR
- Contact Trevor Clark (410-573-4527) of the U.S. Fish and Wildlife Service for proper procedures prior to beginning work. Have surveys conducted to determine if Delmarva fox squirrels are present. In accordance with Delaware's fox squirrel site survey procedures, surveys must be conducted by a State approved fox squirrel surveyor two times between September and May: once in the fall, and again between

March 15 and May 30. A list of qualified surveyors is available upon request. Please note that surveys may confirm the presence of fox squirrels but cannot confirm absence.

Nuisance Species

It is recommended that the size of ponds incorporated in the subdivision design be reduced. These large ponds will likely attract waterfowl like resident Canada geese and mute swans that will create a nuisance for community residents. Although small numbers of these species are enjoyed by residents, geese and swans can quickly multiply and overwhelm the area. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Ponds that remain in the subdivision plan should be landscaped to deter nuisance species. Short manicured lawns around ponds provide an attractive habitat for these species. However, native plantings, including tall grasses, wildflowers, shrubs, and trees at the edge and within a buffer area around ponds, are not as attractive to geese because they do not feel as safe from predators and other disturbance when their view of the area is blocked. The Division of Fish and Wildlife does not provide goose control services, and if problems arise, residents or the home-owners association will have to accept the burden of dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with a reduction in the number of ponds, proper landscaping, monitoring, and other techniques, geese problems can be minimized.

State Historic Preservation Office (SHPO) – Contact: Anne McCleave 739-5685

There is a high probability for prehistoric archaeological sites within the subject area. It is recommended that the development stay out of the forested wetland area, as a probability for archaeological sites is high there. The PLUS application indicates that there will be federal involvement in this development; therefore the federal agency involved must comply with Section 106 of the National Historic Preservation Act.

Public Service Commission – Contact: Kevin Neilson 302-739-4247

A water CPCN application is required.

Any closed system propane or natural gas distribution must be coordinated with the Office of Pipeline Safety.

State Fire Marshal's Office – Contact: Kevin McSweeney 739-3696

The State Fire Marshal's Office has noted that this document is for informational purposes only and does not constitute any type of approval. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans

depicting the following in accordance with the Delaware State Fire Prevention Regulation:

a. **Fire Protection Water Requirements:**

- Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers.
- Where a water distribution system is proposed for townhouse type dwelling sites, the infrastructure for fire protection water shall be provided, including the size of water mains.

b. **Fire Protection Features:**

- For townhouse buildings, provide a section / detail and the UL design number of the 2-hour fire rated separation wall on the Site plan

c. **Accessibility:**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- If the use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.

d. Gas **Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.

e. Required **Notes:**

- Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
- Proposed Use
- Square footage of each structure (Total of all Floors)
- National Fire Protection Association (NFPA) Construction Type
- Maximum Height of Buildings (including number of stories)
- Name of Water Provider
- Letter from Water Provider approving the system layout
- Townhouse 2-hr separation wall details shall be shown on site plans
- Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com technical services link, plan review, applications or brochures.

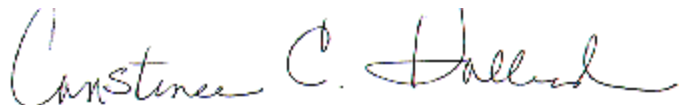
Department of Agriculture - Contact: Mark Davis 739-4811

DDA encourages you to contact the Community and Urban Forestry Section of DDA for assistance with environmentally friendly and aesthetically pleasing subdivision design. It is also strongly encouraged that you use not only non-invasive species, but native species, in landscape plantings. Brain Hall, Urban and Community Forester, can assist in this effort.

In conclusion, the State would again like to thank you for meeting with agency staff and considering their recommendations. Please note that according to Del Code 9204 (d) you are required, upon the filing of an application with the local jurisdiction, to provide a written response to the comments received by State agencies in this letter. This letter should note whether comments were incorporated into the project design or not and the reason therefore. The letter should be addressed to the local jurisdiction with a copy sent to the Office of State Planning.

If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in dark ink, reading "Constance C. Holland". The signature is fluid and cursive, with the first name "Constance" being the most prominent part.

Constance C. Holland, AICP
Director

CC: Sussex County